5666

Sl. No. 26]

GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE.

General and Revenue Secretariat.

Requisition for papers.

Section C5

A

B

Filed

Deposit No.

File No. 351A-42

Serial No. 1 to 745

To be put up with Diary No. of 194 7

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Date 6/1947

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1942

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Previous References.

(April 45)

Serial Nos. /

Later References.

GENERAL AND REVENUE SECRETARIAT

Serial Nos. /

Part B for July '46

SUBJECT.

Liability of a Soldier-
assaulting a Private Person in
his discharge of his duties.

Serial No.

Books Sakn. Hon:—
1) Roy & Chopra Military Act
2) Keane & Bellots Leading Cases on Constitutional Law
3) Chesters Selected Law. Vol I
4) Ewin's Penal Law Vol I
5) Indian Military Law (Manual)

3
21/10/42

NOTE.

If a soldier, in the discharge of his duty, assaults a private person and as a result of the assault, kills him, what would be his defence and to which jurisdiction would he have to submit himself for his trial?

This question will have to be discussed under the following heads:-

(a) A soldier who is subject to the Indian Army Act, but is on duty in the Mysore State.

(b) One who is subject to the Mysore Military Act.

(c) Act done in times of peace and done in times of war.

I. GENERAL PRINCIPLES;

a) The Indian Penal Code and the Mysore Military Act:

The law of crimes is embodied in the Indian Penal Code, and it applies to all the citizens of the State, including soldiers. But there are some special Laws, such as the Mysore Military Act and the Indian Army Act, which deal particularly with offences committed by Military men. These Acts are recognized in the Indian Penal Code, for, Section 5 of the said Court clearly lays down that the provisions of the Code do not repeal or affect any of the provisions of the special Acts in force. Nevertheless there are certain general principles of criminal law which are universally applicable to all cases. These are enunciated in Chapter IV of the Indian Penal Code, and these general principles can be taken into consideration even while dealing with Military offences. No doubt,

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doubt, special Military offences are triable only by Special Military Courts, which are known as Courts-martial, but this does not mean that all Criminal offences should be tried by a Court-martial and not by the Criminal Courts of Law. Both the Mysore Military Act and the Indian Army Act recognize the fact that certain offences committed by soldiers may be tried by the ordinary Criminal Courts, and it is for this reason that in both the Acts provision is made for cases of concurrent jurisdiction arising in respect of an offence committed by a soldier - Vide Rule 94 and 95 of the Mysore Military Act and Sections 69 and 70 of the Indian Army Act. Thus, the special Acts, Viz., the Military Acts do not exclude altogether the provisions of both the Indian Penal Code and the Criminal Procedure Code, and the said Acts term Military offences, which are triable by the ordinary Courts of Law of the land, as Civil Offences in contradistinction to offences triable by a Court-martial.

b) <u>The Mysore Military Act not exhaustive.</u>

A perusal of this Act shows that it relies for many things on the Indian Military Act. Section 1 of the said Act clearly lays down that in active service the Mysore Soldiers are subject to the Indian Army Act so far as that Act can be made applicable to them. Further Chapter XI Section 36, of the Mysore Act lays down that as regards Court-martial the provisions of the Indian Military Act would apply where ~~the~~ no provision is made in this respect in the Mysore Act. So the Mysore Military Act has to be read along with the Indian Army Act to deal

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deal with offences committed by Mysore soldiers .

II When the soldier is subject to the Mysore Military Act:-

a) His Defence.

Having these principles in view, we shall now deal with the case in question. I shall just tackle problem (b) of the question (i.e.) of a Mysore soldier subject to the Mysore Military Act.

The soldier is on duty and in the discharge of his duty he kills the private person. Has he committed any offence?

The soldier can plead by way of defence the points noted in Section 76 of the Indian Penal Code and if he proves those points, then, he has not committed any offence. He has to show that at that time, he was acting under a lawful command, and that the force employed by him was in the discharge of his duty and that force was not in excess, but was proportionate to and was necessitated by the circumstances of the case This is a question of fact which has to be pleaded and proved. The cases in support of my statement are to be found in Thomas and Bellots "Leading cases in Constitutional Law " pages 165 to 169 also vide page 429-para 594 of Gower's Penal Law Vol. I.

b) The Court of Trial:-

The local police having jurisdiction or the Military authorities may investigate the case. Section 28, to 32 of the Mysore Military Act deal with investigation and Section 36 onwards deal with Court-martial and Section 94 and 95 deal with the power of Government

NOTE—Contn. Sheet.

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Government to order by which Court the case has to be tried. But in this we have to be guided by the Sections of the Indian Army Act, to ~~guid~~ find out, which case or cases can be tried by an ordinary Court of by Court-martial. The principles to determine the Court for trial are to be found in Chapter VI of the Indian Army Act. This case being one of culpable homicide not amounting to murder, may not be tried by a Court-martial - vide proviso to Section 93(b) of the Mysore Military Act and para 1 of Chapter VI of the Indian Army Act page 91.

III. When the soldier who is subject to the Indian Army Act, commits the Act when he is on duty in the Mysore State:-

a) His Defence:-

The principles discussed by me when treating the case of the Mysore Soldier subject to the Mysore Military Act, apply in this case also. He too will have to plead and prove the same pleas as the Mysore soldier. So far as this aspect is concerned, there is no difference.

b) The Court of Trial:-

But the question of jurisdiction in this case would be different. In the case of the Mysore soldier, the Mysore Criminal Courts or the Court-martial under the Mysore Military Act, will try the case. Whereas in this case, I feel that the Mysore Courts may not have jurisdiction over the soldier, who is subject to the Indian Army Act, in the same way as they have

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have in respect of the act committed by the Mysore soldier.

At present, the Mysore State has permitted foreign troops to be stationed within its territories. By this act, the Mysore State has waived its jurisdiction over the foreign troops – and as such these troops will be governed by the Law of the place to which the troops belong. Vide page 234 (3) of Wheaton's International Law Volume I. Hence these troops, will be governed by the Indian Military Act, the Army Act etc. and our Government may not have any jurisdiction over such troops.

III. Act done in times of peace and in times of war:-

A perusal of the Mysore Military Act shows that a higher punishments are awarded to soldiers who violate the Military Law and the Laws are enforced expeditiously. In the case in question, the question of the degree of force applied by the soldier in killing the person in the discharge of his duty would be examined in greater detail by a court of Law, in times of peace, than in times of War.

For favour of kind perusal (Note Submitted as directed)
Dewan)

21/10/42

The Law Secy may please see if any thing appears to me in my opinion to be liable

24/10/42

The papers may now be filed

NOTE Contn. Sheet.

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Proof for Approval

ACT No. II OF 1899.

The Mysore Military Act, 1899.

((Passed on the 5th day of April 1899.)

Whereas it is expedient to amend the Disciplinary Law applicable to the Mysore Lancers, Mysore Horse, Mysore Infantry and Mysore Mechanical Transport Corps. Her Highness the Maharani-Regent has been pleased to enact as follows:—

Sections 4 and 5 of the Standing Orders for the Mysore Imperial Service Cavalry, issued under date the 11th May of February 1897 are hereby cancelled, and in lieu thereof the following Rules for the Punishment of Crime in the Mysore Imperial Service Cavalry and Transport (†[Corps]†) shall come into operation from the passing of this Act, which may be cited as "The Mysore Military Act, 1899."*

RULES FOR THE PUNISHMENT OF CRIME IN THE MYSORE IMPERIAL SERVICE CAVALRY AND TRANSPORT [CORPS].

Preliminary.

† 1. *"All Officers, N. C. Os., Sowars, Sepoys, drivers and followers of the Mysore Lancers, Mysore Horse, Mysore Infantry, and Mysore Mechanical Transport Corps are subject to these rules except on active service when they are under the same rules as laid down in the Indian Army Act, so far as such rules can be made applicable to them."*

I.—Definitions.

2. The following are military offences.—

Military offences.

(1) *Mutiny* is the act of two or more soldiers or followers who join together to resist or disobey lawful authority.

(2) *Violence to superiors.*—Any soldier or follower who strikes, pushes, or threatens to strike or injure any officer or non-commissioned officer of superior rank to himself, whether on or off duty, is guilty of this offence.

[*—*] This paragraph was substituted for the paragraph substituted by Act V of 1900 by paragraph 1 of Act XXIX of 1940.

[†—†] These words were substituted in the preamble portion by Act XXIX of 1940

* Certain words were Substituted by para 1 of Act II of 1910 and Act XXIX of 1940

[ ] Added by para 1 of Act II of 1910

† Substituted by para 1 of Act XXIX of 1940

Section 2.

(3) *Insubordination* is wilful disobedience in word or deed of any lawful command given by a superior in the execution of his duty or insolence to *a superior.*

(4) *Disobedience* is the non-compliance with any lawful command given by a superior officer, (*i.e.* officer or non-commissioned officer.)

(5) *Desertion* is absence without leave *with the intention* of not returning. A soldier absent without leave for two months will be considered a deserter, unless his absence can be satisfactorily accounted for.

(6) *Sentry sleeping on or quitting his post.*—A soldier quits his post when he leaves it without being properly relieved.

† (7) *Seeking plunder.*—Any officer or soldier who, leaves his regiment or post for the purpose of pillaging the inhabitants of the country, or breaks into any place to plunder, is guilty of this offence.

(8) *Abandoning garrison or post* is the quitting or giving up by any officer or soldier of a garrison, post, or guard committed to his charge, or which it is his duty to defend.

(9) *Betraying watchword.* A soldier who makes known the watchword or countersign to any person not entitled to receive it is guilty of this offence.

(10) *Corresponding with the enemy* is the holding of any correspondence with, or communicating and intelligence to any enemy, or the knowing of the existence of such correspondence or communication, and omitting to report the same to a superior officer.

‡ (11) *Assisting the enemy* is the assisting or relieving of an enemy with ammunition, provisions, or money, or knowingly harbouring or protecting an enemy of, or person in arms against, the [British] Government.

(12) *Misbehaviour in presence of the enemy* is cowardice or casting away arms or ammunition in presence of an enemy, or using words calculated to discourage or to induce any officer or soldier to abstain from acting against an enemy.

[—] The words were omitted by para 2 (*b*) and 2 (*c*) of Act XXIX of 1940.

[*—*] The word were substituted for the words "the same" para 2 (*a*) of Act XXIX of 1940.

† certain words were omitted by Para 2 (b) of Act XXIX of 1940.

‡ the word "British" omitted by Para 2 (c) of Act XXIX of 1940.

Section 2.

(13) *Creating false alarm* is the spreading of a report by word or letter calculated to cause false alarm, or intentionally doing some act which will cause a false alarm.

(14) *Assulting persons bringing provisions* is the using of force against or assulting any person bringing in provisions or other necessaries to the camp.

(15) *Striking or forcing a sentry.*—Anybody wilfully doing an act to prevent which a sentry has been posted forces that sentry, and thus becomes guilty of this offence.

(16) *Unbecoming behaviour in an officer* is the commission of any *Act* derogatory to the rank and position of an officer, and calculated to lower him in the eyes of his men.

(17) *Absence without leave.*—A soldier or follower is guilty of this offence who leaves his regiment without permission, or who overstays leave granted to him without a sufficient cause.

(18) *Releasing prisoner* is without properly authority releasing a prisoner placed under his charge, or allowing him to escape.

(19) *Drunkenness on duty* is intoxication with spirits or drugs when on or warned for any duty, or on parade or the line of march.

N.*B.*—The line of march is the distance between the station of departure and that of destination.

(20) *Breaking arrest* is the leaving of quarters, place of confinement or lines without permission when under arrest, in confinement, or under punishment.

(21) *Striking subordinate* is the ill-treating of any soldier or camp-follower junior in rank or position.

(22) *Extortion* is the demanding of money, goods, or position by threatening, exposure, punishment, etc., or by holding out hopes of advancement or gain.

(23) *Defiling place of worship* is intentionally doing an act in connection with a place of worship calculated to wound the feelings of those who are in the habit of using that or similar places for the purposes of religion.

(24) *Injuring or making away with horse, arms, clothing or equipment* is wilfully, or through neglect, injuring, losing, concealing removing, selling or delivering to any unauthorized person the horse, arm, clothings, or equipment, entrusted to the care of a soldier.

[*—*] This word was substituted for the word 'offence' by para 2 (*d*) of Act XXIX of 1940.

(25) *Embezzlement* is dishonestly misappropriating or converting to his own use money, provisions, forage, arms, equipment, or [military] stores of any kind entrusted to the charge of an officer or solider, or dishonestly using, or disposing of such property, or dishonestly receiving or retaining any such property, knowing or having reason to believe it had been dishonestly misappropriated or converted.

(26) *Destroying Government property* is the wilful injuring or destroying of property belonging to the State, or to the Government of India.

(27) *Giving false evidence* is, after being duly sworn, or affirmed, making a false statement, knowing or believing it to be false, before a Court-Martial or other Military Court competent to administer an oath or affirmation.

(28 *Malingering* is feigning, producing, or aggravating illness or intentionally delaying cure.

(29) *Wilfully causing hurt* is the intentional injuring by a soldier or follower of himself or other person with intent to render himself or other person unfit for the service.

(30) *Theft* is the taking of an article which does not belong to the taker, without lawful permission.

(31) *Making false returns* is knowingly furnishing a false return or report, or, through design or culpable neglect, omitting or refusing to send or make a true return or report.

(32) *Other fraudulent offences* are such other acts as are done with intent to defraud, or cause wrongful loss to one person or wrongful gain to another.

(33) *Harbouring deserter* is knowingly concealing a deserter, or knowing where he is located, not giving information thereof to his Commanding Officer.

(34) *Failure to rejoin* is, when a soldier or follower on leave of absence having received information from proper authority that his regiment or corps has been ordered on service, failing, without sufficient cause, to rejoin without delay.

(35) *Failure to attend parade* is without sufficient cause failing to appear, at the fixed time, at the parade or place appointed for exercise or duty.

(36) *Taking bribes* is directly or indirectly requiring, accepting or obtaining, or agreeing to accept or obtain, for

[ ] The word "military" was omitted by para 2 (a) of Act XXIX of 1940.

* The word "military" was omitted by para. 2 (a) of Act XXIX of 1940

oneself or some other person, any gratification as a motive or reward for procuring the enlistment, leave, promotion, appointment, etc., of any person in the service.

(37) *Habitual drunkenness* is intoxication more than four times in three months.

(38) *Contempt of Court* is the intentional offering of any insult to a Court-Martial, or causing interruption or disturbance to a Court-Martial, or using menacing word, sign, or gesture in the presence of a Court-Martial.

(39) *Offence against Courts-Martial* are intentionally omitting to attend when duly summoned, prevaricating, refusing to take an oath, or to make affirmation, refusing to answer a question, refusing or neglecting to produce or give up any book or document ordered by the Court to be produced or given up.

(40) *Cruelty or indecency* is the committing of any offence of a cruel, indecent or unnatural kind, or attempting any such offence, or doing any act towards its commission.

(41) *Enlisting a deserter* is enlisting a person, knowing or having reason to believe that he is a deserter.

(42) *Quitting parade or line of march* is the doing so without sufficient cause, or without leave from a superior officer.

(43) *Appearing armed in camp* is appearing, when off duty without proper authority, in or about camp, or cantonments, or in or near any bazaar, or town, carrying a sword, bludgeon, or other offensive weapon.

(44) *Writing anonymous letters* is the writing, or causing to be written, any letter or document not bearing a signature with a view to injuring the persons written about.

(45) *Conduct prejudicial to good order and military discipline* is being guilty of any act or omission considered prejudicial to good order and military discipline which a Court-Martial can try (*i.e.*, military offences not already specified).

(46) *Abetment* is either directly or indirectly aiding in the actual commission of a crime.

(47) **Fraudulent enrolment.* A soldier or follower is guilty of this offence when without having first obtained a regular discharge from the corps or unit to which he

*This new definition was added by sec. of Regulation 1 of 1920.

Sections 3-4.

belongs, he enrolls himself in the same or any other corps or unit.

48. **False answers on enrolment.*—Any person subject to this Act who makes a wilfully false answer to any question set forth in the prescribed form of enrolment which was put to him by the enrolling officer before whom he appeared for the purpose of being enrolled is guilty of this offence.

†2A. *Chief Commandant* shall mean the officer entrusted for the time being with the command of the Mysore Troops.

II.—Powers of Commanding Officer.

Power of Commanding Officer.

3. The following crimes will be dealt with by Commanding Officers, unless owing to frequent repetition, or the gravity of the offence, they think it advisable to report the matter to higher authority, in which case, they will in making the report, give a different expression of opinion as to what punishment, or action they suggest—

Drunkenness.
Insubordination.
Gambling.
Striking soldiers.
Wilfully causing hurt.
Absence without leave.
Failure to attend parade.
Irregularities on guard, or sentry duty in peace time.
Neglect or maltreatment of a horse, poney, or mule.
Creating a disturbance.
Conduct to the prejudice of good order and military discipline.

Imprisonment

4. For the foregoing offences commanding officers may award the following summary punishments, *viz.*—

(*a*) §*Imprisonment*, with or without hard labour to the extent of fourteen days. This punishment, which is to be reckoned from the time of the Commanding Officer's award, is to be carried out in the quarter-guard, prisoner's room, or cell and ends at the sunset of the day the sentence expires. An award of imprisonment may be accompanied by an award of confinement to the lines, but both together must not exceed 30 days.

Confinement to lines.

(*b*) §*Confinement to lines*, for any period not exceeding twenty-eight days' which carries with it punishment drill to the extent of fifteen days, the taking of all duties in regular turn, attending parades and being further liable to be employed on duties of fatigue at the discretion of

* The figure and letter 2A were substituted for figure 47 by para 1 of Regulation II 1906.

○—○—This new sub-para has been added by para 2 (*f*) of Act XXIX of 1940.

——This word was substituted for the word 'seven' by para 3 (*a*) of Act XXIX of 1940.

‡—‡—These words words were added by para 3 (*a*) of Act XXIX of 1940.

§—§—This word was substituted for the word 'thirty' by para 3 (*b*) of Act XXIX of 1940.

* This sub-para was added by para 2(f) of Act XXIX of 1940.

† The figure and letter 2A were substituted for the original figure 47 by para 1 of Act II of 1906

§ In para 4(a), the word "fourteen" was substituted and certain words were added and in para 4(b) "twenty-eight" was substituted, by Paras 3(a) & (b) of Act XXIX of 1940

Sections 4-5.

the Commanding Officer. Every award of confinement to lines for fifteen days and under, is to carry with it punishment drill, which will be carried out in marching order under the supervision of a non-commissioned officer, detailed by the Adjutant for the purpose, and must never ~~never~~ exceed two hours a day and one hour at a time.

Deprivation of G. C. P.

(*c*) Deprivation of good conduct pay, either as a substantive punishment, or in addition to any other minor punishment.

Confinement to the lines or imprisonment must always be awarded in addition to ~~forfeiture~~ of pay for absence without leave.

Extra guards and duties.

(*d*) *Extra guards and duties.*—These are only to be ordered as a punishment for minor offences or irregularities when on or parading for these duties and will not exceed three.

*(*e*) *Stoppages of pay* for absence without leave, but only for the number of days absent.

Stoppages of pay.

Stoppages will be enforced for each day, or portion of a day of absence without leave. Overstaying leave will be considered equivalent to, and will be dealt with as, absence without leave. Confinement to the lines, or imprisonment must always be awarded in addition to forefeiture of pay for absence without leave.

Stoppage of leave.

*(*f*) *Stoppage of all leave* during the ensuing six months or forfeiture of the next furlough due.

Arrest of officers.

5. (*a*) The Commanding Officer, on receiving a complaint or coming to know of circumstances tending to incriminate an Officer, will, if he is satisfied by enquiry that it will be necessary to proceed with the case, place him under arrest and at once submit the records to the Chief Commandant for the orders of the Government.

5. (*b*) The Chief Commandant will submit the records with his own recommendation to the Government releasing the officer concerned from arrest, if in his opinion there are not sufficient grounds for proceeding with the case.

[—] Omitted by 3 (*c*) and 3 (*d*) of Act XXIX of 1940

— This para substituted for the original by para 4 of Act XXIX of 1940.

* A sentence was omitted by para 3 (c) of Act XXIX of 1940.

*** Para 4 (g) omitted by para 3 (a) of Act XXIX of 1940.

† Paras 5 (a) & (b) were substituted by para 4 of Act XXIX of 1940.

Sections 6-11.

Release from arrest.

6. An officer placed under arrest by the Commanding officer will not be released from arrest without the orders of the Chief Commandant under Section 5 (*b*) the sanction of Government.

Punishment of non-Commissioned officers.

7. Commanding Officers will award non-commissioned officers (including lance dafdars) only the following minor punishments :—

(*a*) reprimand,

~~(b) Severe reprimand of one rate of services pay.~~

(*c*) [deprivation of one rate of good service pay]

For serious offences, non-commissioned officers should be placed under arrest, and their offences reported to the Chief Commandant. Non-commissioned officers should not be ~~pre~~reprimanded in the presence of hearing of subordinates, lest their authority be weakened and their self-respect lessened.

Alteration of publishments

8. No award of punishment will be increased for any one offence once the prisoner has left the Commanding Officer's presence, and no punishment once awarded will be reduced, except with the sanction of Government.

Persons to be present at investigation.

9. The Squadron or Company Commander, Troop or Platoon Commander & Section Commander will be present when a prisoner is brought before the Commanding Officer and the man's sheet roll will be produced by the troop or platoon commander in order that his previous character may be ascertained.

Record of punishments.

10. All awards of punishment will be first entered in the general defaulters' book and then copied into the men's sheet-rolls.

PUNISHMENT OF FOLLOWERS.

Punishments of followers.

11. Followers subject to the following punishments by Commanding Officers :—

Menial servants to—

Dismissal.	15 days' confinement in the lines
3 days imprisonment	[‡] Fines not exceeding a day's pay for each offence [‡]

Others to—

Dismissal.

Fines, not exceeding half their monthly pay in any one month, and not exceeding two months' pay in the year.

[*—*; †—†] These words were added by para 2 of Regulation II of 1910.

[‡—‡] These words were added to para by Regulation IV of 1901. s. 1.

— Para 12 was omitted by para 4 of Regulation II of 1910.

x—x These words were inserted before the words "the sanction of Government" by para 5 Act XXIX of 1940.

— These words were added after the word 'reprimand' by para 6 of Act XXIX of 1940.

†—† These words were substituted for the words "deprivation of good conduct pay by para 6 of Act XXIX of 1940.

[Omitted by para 6 of Act XXIX of 1940.

o—o This para was substituted for the original by para 7 of Act XXIX of 1940.

[—] Omitted by para 8 of Act XXIX of 1940.

[o] * Certain words inserted by para 5 of Act XXIX of 1940;

† para 7 amended by para 6 of Act XXIX of 1940

§ Substituted for the original by para 7 of Act XXIX of 1940.

‡ para 11 amended by para 11 of Act IV of 1901 and para 8 of Act XXIX of 1940

* para 12 omitted by para 4 of Act II of 1910

Sections 13-17.

III.—POWERS OF SQUADRON COMMANDERS, COMPANY COMMANDERS AND ADJUTANTS.

Powers of Squadron Commanders Company Commanders and Adjutants.

13. Squadron Commanders† Company Commanders† and Adjutants may award to sowars sepoys and drivers—

Ten days' confinement to the lines of carrying with it punishment drill.

Extra stables not exceeding half an hour at a time.

Extra inspection parades of uniform, saddlery and equipment.

Extra drill not exceeding one hour a day, for not more than three days.

Power of officers when officiating.

14. § Officers officiating as Commandants, Squadron Commanders† Company Commanders† and Adjutants are authorised to award the punishment which may be awarded by those ranks.

IV.—POWERS OF INDIAN OFFICERS.

Powers of Indian officers.

16.† Risaldars and Subedars may award—

(a) *Seven days confinement to the lines.*

(b) *Extra drill not exceeding one hour a day, for not more than three days.*

(c) *Extra stables not exceeding half an hour at a time and one hour in a day, but not exceeding six in all.*

(d) *Extra inspection parades (not exceeding three) of saddlery and equipment.*

17. ‡Jamadars may [award]—

(a) *Three confinement to the lines.*

(b) *Extra drill, not exceeding one hour a day, for not more than three days.*

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* Para 15, 18 and 19 were omitted by para 5 of Regulation II of 1910.

†—†‡—‡ These words were added by para 4 of Regulation II of 1910.

x—x This new sub para was added by para 10 of Act XXIX of 1940.

o—o Substituted by para 11 of Act XXIX of 1940.

[—] These words were omitted by para 12 of the Act quoted above.

Sections 20-23.

VII.—ASSISTANTS-SURGEONS AND HOSPITAL-ASSISTANTS.

Of Assistant Surgeons and Hospital-Assistant.

20. Assistant-Surgeons may award up to 15 days' and Hospital-Assistants up to 10 days' confinement to the hospital compound to hospital servents; all punishments so awarded must be reported on the following morning to the Commanding Officer.

VIII.—POWERS OF OFFICERS IN COMMAND OF DETACHMENTS.

Powers of officers in command of detachments.

21. *The Commanding Officers may, if they consider it desirable and necessary, authorise any officer of whatever rank who may be in command of a detached party or outpost to award any or all of the following minor punishments, notifying their action to the Chief Commandant.

Powers of Officers in command or detachments, is if authorised by Commanding Officer :—

(i) If the Officer Commanding Detachment is a State Officer :—

(*a*) Imprisonment with or without hard labour to the extent of seven days.

(*b*) Confinement to lines up to 14 days.

(*c*) Extra drill not exceeding two hours a day and not more than five days.

(*d*) Extra inspection parades of saddlery and equipment, not exceeding three.

(ii) If the O.C. Detachment is an Indian Officer :—

(*a*) Imprisonment with or without hard labour to the extent of five days.

(*b*) Ten days confinement to the lines.

(*c*) Extra drill not exceeding two hours a day for not more than five days.

(*d*) Extra inspection parades of saddlery and equipment not exceeding three.

Powers of State Officers not in command of companies or Squadrons :—

(*a*) Seven days confinement to the lines,

(*b*) Extra drill not exceeding one hour a day for not more than seven days.

(*c*) Extra stables not exceeding half an hour at a time and one hour in a day, but not exceeding six in all.

(*d*) Extra inspection parades (not exceeding one) of saddlery and equipment.

22. § All awards must be reported to the Adjutant in writing, for entry in the general defaulters' book and submission to the commanding Officer.

IX.—POWERS OF CHIEF COMMANDANT.

Summary powers of C. C.

23. The following punishments may be awarded by the Chief Commandant.

(*a*) † To non-commissioned officers—

(1) Reprimand. Severe Reprimand.

(2) Loss of standing.

(3) Reduction to the ranks, or to a lower grade.

(4) Reduction and imprisionment up to 28 days, with or without hard labour, but no non-commissioned officer can be awarded imprisonment without first having been reduced.

*This para was substituted for the original by para 13 of Act XXIX of 1940.

[—] These words were omited by para 14 of the Act quoted above.

* This para was substituted for the original by para 13 of Act XXIX of 1940.

§ Certain words omitted by para 14 of Act XXIX of 1940

† Certain words were added to para 23(a) by para 15 of Act XXIX of 1940

[a] (b)To sowars, (b) Sepoys drivers (a) and all followers—

(1) Imprisonment up to 28 days, with or without hard labour.

(2) Dismissal.

(3) Reduction to a lower grade [a]

24. An officer can be reprimanded, but cannot otherwise be punished by the Chief Commandant.

Cases how to be dealt with by C. C.

25. Should the Chief Commandant consider that an officer has committed an offence for which a reprimand is not a sufficient punishment, he will report the case for the orders of Government.

26. Should the Chief Commandant come to the conclusion that an officer who is accused of an offence has erred through incapacity rather than with intention, he should, in forwarding the case for the orders of Government, give reasons for the conclusion he has come to.

Summary discharge of men who have re-enlisted.

27. The Chief Commandant is empowered to discharge summarily any person, of whatever rank, who may have enlisted without declaring his previous service, whether in the British (Native) Army, in an Imperial Service Corps or in the military service of any State.

X.—INVESTIGATION OF CHARGES.

Investigation of charges.

28. When an accusation is made against any officer or non-commissioned officer, or when any serious charge is preferred against, or any serious crime committed by, any person subject to these Rules, an immediate report is to be made to the Chief Commandant for his information.

29. The Chief Commandant will thereupon arrange to personally investigate the case. Provided that should he be unable to make such personal investigation within the 48 hours prescribed by the following Rule (30) he shall

[a-a] This sub-para was substituted for the original sub-para by Regulation I of 1905.

[b-b] The remaining words *viz.*, "Sepoys, Transport Lance Dufadars and" inserted by para 1 of Regulation 1 of 1905, but the words "Sowars and Drivers were repealed by para 8 of Regulation II of 1910.

**Sub-para (c) of para 23 which had been amended by Regulation I of 1905 was repealed by Regulation II of 1910.

*—*Added by para 16 of Act XXIX of 1940.

[—] Omitted by para 16 of Act XXIX of 1940.

X Sub para 23(b) was substituted for the original by Act I of 1905 and amended by para 16 of Act XXIX of 1940.

† Sub-para (c) of para 23 was omitted by Act II of 1910

forthwith transfer the case for the disposal of such officer as may be appointed in that behalf by general or special order of Government.

30. Not more than 48 hours (Sunday and the weekly holiday excluded) must be allowed to elapse between the receipt of the report and the investigation of the case.

31. The Commanding Officer is responsible that, when such cases are brought up for investigation, they are brought as complete as possible, and that all witnesses, both those for and those against the offender are present.

32. After the investigation has been completed, the Chief Commandant will either— Disposal after investigation.

(1) Punish the offender (under paragraph 23) or

(2) Report the case to Government for order.

33. All punishment awarded by the Chief Commandant will be duly entered in the general defaulters' book and in the sheet-rolls.

34. (*a*) The Chief Commandant is not authorized to cancel, remit, or reduce any summary award of punishment made by a Commanding Officer in accordance with these Rules without the approval of Government.

(*b*) All cases, in which the Chief Commandant may be of opinion that the *Commandant's* recommendations should not be accepted, shall be submitted by the Chief Commandant for the orders of the Government in the following form:—

Date and No of *Commandant's* recommendation	Brief statement of facts	*Commandant's* recommendations	Chief Commandant's opinion	Orders of Government

All such references will be returned to the Chief Commandant with the order of Government duly entered in the last column.

[* *] Substituted for the word "Regimentdar's" by para 9 of Regulation II of 1910.

35. By an executive order, the Government may, at any time, add to, modify, or cancel any of the powers specified in paras 3 to 34 of these Rules, and provide for their exercise by such officer and in such manner as it may from time to time think fit.

XI.—COURTS-MARTIAL.

Court Martial.

36. [a-a] "The procedure to be observed for the assembling and composition of Courts martial on service and in time of war will be the same as that laid down in the Indian Army Act, 1911, as amended from time to time."[a-a]

In times of peace the rules prescribed in the Manual of Indian Military Law and Regulation for the Army in India under "a court-martial" may be taken as a guide for the procedure of court martial where not otherwise provided for in the Mysore Military Act".

Composition.

37. In time of peace a Court-Martial under these Rules will consist of a President not under the rank of Squadron Commander (a) or Company Commander (b) and two officers as members. For the trial of an officer, the number of members will ordinarily be four, of whom at least two should be senior to the prisoner, and, if possible, the remainder should be of equal rank to the prisoner. Provided that where four officers are not present and available, two will suffice.

By whom convened.

38. [b-b] "A court-martial for the trial of a person other than a commissioned officer will be convened by the Chief Commandant and a court-martial for trial of a commissioned officer will be convened by be Cheif Commandant with the sanction of the Government or of an officer specially authorised in this behalf by the Government."[b-b]

39. Courts-Martial will only be resorted to in case of serious offences, or when it is found that milder measures have not had the desired effect, or when it is thought desirable in the interests of discipline that an example should be made.

40. When application has been made for a Court-Martial to be assembled, no witness is to be allowed to leave the station except in case of severe sickness, or public emergency. The death or absence of any material witness is to be immediatly reported to the Chief Commandant for the information and orders of the authority sanctioning the convening of the Court martial.

[a-a] This paragraph, was substituted for the original paragraph 36 by Regulation No. V of 1900, s. 2.

[b-b] Added by para 17 of Act XXIX of 1940.

‡—‡ This para was substituted for the original by para 19 of Act XXIX of 1940.

†—† This sentence was substituted for the first sentence of the original by para 2 of s Act XX of 1942.

°—° Substituted for the word "Government" by para 20 of Act XXIX of 1940.

[c-c] Inserted by para 10 of Regulation II of 1910.

— Substituted for the words 'Articles of war' by para 1 of Regulation, II of 1913.

Sections 41-48.

41. An officer employed on Court-Martial duty is not to be allowed to leave the station until the sentence of the Court-Martial is confirmed, except with the special sanction of Government.

42. A prisoner ordered for trial by Court-Martial must have the charge or charges on which he is to be tried read over and carefully explained to him at least 24 hours before the trial commences, and he will at the same time be called upon to give the names of the witnesses whom he desires to be called in his defence.

43. No man can be tried by Court-Martial on a charge of which he has already been acquitted or convicted by a Civil Court or a Court-Martial.

Statute of limitation.

44. No person will be tried or punished by a Court-Martial for any military offence after the expiration of three years from the date of the commission of that offence other than an offence of mutiny or fraudulent enrolment unless the offender, by reason of absence or of some other manifest impediment, could not be arrested or confined or brought to trial within that period, in which case he will be liable to trial at any time not exceeding two years after such impediment shall have ceased.

Precedence of Members of Courts-Martial.

45. Members will take their places in Court by seniority, and on a vote being taken, the President will call on the junior to give his vote first, and then in rotation to the senior member, the President himself voting last. No written record will be kept of the votes of the different members.

46. When being tried by Court-Martial, an officer or a non-commissioned officer should be placed under the custody of an officer or a non-commissioned officer of equal or superior rank.

Prosecutor.

47. The Adjutant, or other specially appointed officer will act as prosecutor. It is his duty to see that all witnesses are present, and that those for the prosecution give evidence bearing on the case; also that all documents required in the case are laid before the Court.

— Inserted by para 21 of Act XXIX of 1940.

[—] Omitted by para 22 of Act XXIX of 1940.

Sections 49-52.

XII.—PROCEDURE OF COURTS-MARTIAL.

Procedure of Courts-Martial.

48. At a trial by Court-Martial, as soon as the Court is assembled, the names of the President and members shall be read over in the presence of the prisoner, each one answering to his name. The prisoner shall then be asked whether he objects to be tried by any of the officers composing the Court. If any objection is made, the prisoner's objection and the explanation of the officer concerned shall be heard and recorded by the munshi on a separate sheet of paper, and the Court will then, in the absence of the challenged officer and the prisoner, decide the objection. If found valid, the Court will adjourn and report the case to the Chief Commandant who will appoint another officer as member. If the objection is not found valid, the Court will proceed with the trial of the prisoner.

Oaths.

49. The president and members of the Court will then make the following solemn affirmation:—

"I, ————————, solemnly affirm in the presence of Almighty God that I will duly administer justice without partiality, favour, or affection, and, if any doubt shall arise, then according to my conscience, the best of my understanding, and the custom in like cases, and that I will not divulge the sentence of the Court until it shall be published by authority; and further that I will not disclose or discover the vote or opinion of any particular member of the Court unless required to give evidence thereof by a Court of Justice or a Court-Martial in the due course of law."

* * * * * * *

50. All witnesses, before being examined, will make the following solemn affirmation:—

[—] This para was omitted by para 23 of Act XXIX of 1940.

* * * Para 51 was omitted by para 23 of Act XXIX of 1940

"I solemnly affirm in the presence of Almighty God that what I shall state before this Court shall be the truth, the whole truth, and nothing but the truth."

Prisoner's plea.

51. Whether the prisoner pleads "guilty" or "not guilty" or whatever the plea may be, the Court-Martial must always take evidence regarding the charge preferred against him.*

Summoning witnesses and production of documents.

[a] 52A. (1) The president of a Court-Martial may, by summons under his hand, require the attendance before the Court, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing.

(2) In the case of a witness amenable to Military authority, the summons shall be sent to his superior officer and such officer shall serve it upon him accordingly.

(3) In the case of any other witness, the summons shall be sent to the Magistrate within whose jurisdiction he may be or reside, and such Magistrate shall give effect to the summons as if the witness were required in the Court of such Magistrate.

(4) When a witness is required to produce any particular document or other thing in his possession or power, the summons shall describe it with convenient certainty.

(5) Nothing in this paragraph shall be deemed to affect the Indian Evidence Act, 1872, Sections 123 and 124, or to apply to any letter post card, telegram or other document in the custody of the Postal or Telegraph authorities.

(6) If any document in such custody is, in the opinion of any District Magistrate, the †High Court,† or any Court of Session, wanted for the purpose of any Court Martial, such Magistrate or Court may require the Postal or Telegraph authorities, as the case may be, to deliver such document to such person as such Magistrate or Court may direct.

(7) If any such document is, in the opinion of any other Magistrate or of any District Superintendent of Police, wanted for any such purpose, he may require the Postal or Telegraph Department, as the case may be, to

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*One witness is usually sufficient to substantiate a charge to which the prisoner has pleaded guilty.

[a] Paragraphs 53A to 53C were added by Regulation, IV of 1905.

†-† The words 'High Court' were substituted for the words 'Chief Court' by Regulation XII of 1930.

cause search to be made for and to detain such document pending the orders of any such District Magistrate or Court.

Contempts of Court.

"53B. (1) Any witness duly summoned, and any person who commits any contempt of Court in the presence of a Court-Martial, or any offence described in clauses (27), (38) and (39) of paragraph 2, shall, if subject to these rules, be proceeded against as the Court may Direct.

"(2) If any such witness or person is not so subject the President of the Court-Martial, may certify the offence under his hand to the Court of any Magistrate within the local limits of whose jurisdiction it was committed, and the Magistrate may thereupon take cognizance of the case, and, after hearing anything which the accused may desire to say, dispose of it as if the offence had been committed in a proceeding in a Court of such Magistrate.

Privileges of persons attending Courts-Martial.

53C. (1) No President or member of a Court-Martial, no party to any proceeding before a Court-Martial, or his legal practitioner or agent, and no witness acting in obedience to a summons to attend a Court-Martial, shall, while proceeding to, attending on or returning from, a Court-Martial, be liable to arrest under civil or revenue process.

(2) If any such person is arrested under any such process, he may be discharged by order of the Court-Martial.

Witnesses.

54. All witnesses who appear before a Court-Martial must be examined in the presence of all the members of the Court-Martial and of the accused.

55. The prisoner has the right to cross-examine any witness who gives evidence in Court.

56. Witnesses are to be called before the Court separately, and must be examined separately; during the examination of a witness no other witness may be present in or within hearing of the Court.

57. Every decision of a Court-Martial must be passed by a majority of votes.

58. If the votes are equal as to either finding or sentence, the decision shall be in favour of the prisoner.

59. In all matters other than the finding or sentence, the president shall have a casting vote.

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[a] Paragraphs 53A to 53C were added by Regulation, IV of 1905.

60. Except in the following cases, no prisoner can be convicted of an offence other than the offences mentioned in the charge-sheet.

A person charged with—	May be found guilty of—
(1) Desertion.	(1) Attempting to desert or absence without leave.
(2) Attempting to desert.	(2) Desertion, or absence without leave.
(3) Theft, or dishonest misappropriation, or criminal breach of trust, or dishonestly receiving or retaining stolen property	(3) Any one of those offences.
(4) An offence committed under circumstances involving a higher degree punishment.	(4) The same offence under circumstances involving a less degree of punishment.

61. When any person is convicted by a Court-Martial of any offence, the prosecutor will be required to produce evidence of any previous conviction of such person, and further a record of his general character should he be under the rank of an officer, and such evidence shall be enquired into and recorded by the Court. For this purpose the prisoner's sheet roll and a copy thereof will be laid before the Court and the latter, after having been compared with the original, will be attached to the proceedings. **Evidence of character.**

*62. Whenever any person is sentenced under this Act to imprisonment, the term of his sentence shall, whether it has been revised or not, be reckoned to commence on the day on which the original proceedings were signed by the Court. Provided that where a sentence of imprisonment is awarded by a court martial to an offender already under sentence of imprisonment for a limited term, the court may direct by its award that the imprisonment shall commence on the expiration of such previous sentence notwithstanding that the aggregate of the terms of imprisonment may exceed the limit awardable for any particular offence. **Award of imprisonment to a man already undergoing imprisonment.**

[*-*] This para was substituted for the orignal by para 24 of Act XXIX of 1940.]

Sections 63-67.

XIII.—CONFIRMATION.

Disposal of proceedings.

*63. The proceedings of every court-martial shall, after being signed by the President (Commanding Officer in the case of summary court-martial) and members, be sent in a sealed envelope by the hand of the Officer, who wrote them to the Chief Commandant for confirmation in the case of such court-martial as he is empowered to convene under paragraph 38, and in other cases for transmission to Government for confirmation

Confirmation.

64. The confirming authority may confirm or not confirm the sentence, or may reduce the punishment awarded, or may order the court-martial to re-assemble, to re-consider or revise their finding or sentence, or both. For this purpose a court-martial may only be once re-assembled.

Revision.

65. When a court-martial re-assembles to re-consider or to revise its finding or sentence, or both, it may take additional evidence.

66. A court-martial when thus re-assembled must consist of the same officers as originally served on it. If any of these are unavoidably absent and if revision cannot, in consequence, be properly carried out, the finding or sentence, or both may in such case be altered by the confirming authority.

XIV PUNISHMENTS.

Punishments.

67. The following are the punishments to which soldiers and followers are liable for committing military crimes :—

OFFICERS, ASSISTANT SURGEONS, AND HOSPITAL ASSISTANTS.

(1) [ ]
(2) Imprisonment* with or without hard labour.
(3) Dismissal†
(4) Suspension from rank, pay and allowances.
(5) Loss of standing.
(6) Reprimand or severe reprimand.
(7) ~~For future~~ of arrears of pay and allowances‡
(8) Stoppages§

*See paragraph 62.
†See paragraph 90.
‡See paragraph 90 and 91.
§See paragraph 92.
[—] Omitted by para 25 of Act XXIX of 1940.
* * This para was substituted for the original by para (2) of Act XXIX of 1942.

NON-COMMISSIONED OFFICERS, SOWARS [b] AND DRIVERS [b]

(1) [ ]
(2) Imprisonment, with or without hard labour.*
(3) Dismissal.*2
(4) Loss of standing.
(5) Reduction to a lower grade or to the ranks.
(6) [ ]
(7) Forfeiture of arrears of pay and allowances.3
(8) Stoppages.§4

[c] FOLLOWERS—[c]

(1) [ ]
(2) Imprisonment, with or without hard labour.*
(3) Dismissal.*2
(4) [ ]
(5) Fines.

69. *Imprisonment.*—Sentences of imprisonment with hard labour for more than three calendar months will be carried out in the Civil Jail and will [e] not of themselves [e] involve dismissal from the service. Officers must be sentenced to dismissal, and non-commissioned officers to reduction to the ranks *before* being sentenced to imprisonment. Sentences of imprisonment with hard labour for three months, or of any less period, and all sentences of imprisonment without hard labour, will be carried out in the regimental quarter-guard, prisoners' room or cells.

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*See paragraphs 62, 69 & 85.
†See paragraph 88.
‡See paragraph 90 and 91.
§See paragraph 92.
§See paragraph 62, 69 & 85.
¶See paragraph 85.

[—] Omitted by para 25 of Act XXIX of 1940.

[*-*] This para was submitted for the original by para (26) of Act XXIX of 1940.

[a-a] These words in sections 68, 78 and 79 were inserted by Regulation V. of 1900, s. 3.

[b-b] These words were added by para 11 of Regulation II of 1910 which repealed the word " and " between " officers and sowers" in the same line.

[c-c] The words " Regimental, transport and Hospital " which had been prefixed to " Followers " were omitted by para 11 of Regulation II of 1910.

[d-d] Substituted for " 50 " by para 2 of Regulation II of 1913.

[e-e] These words were added by section 3 of Regulation I of 1920.

[-] Omited by para 2y of Act XXIX of 1940.

[—] * This para was omitted by para 264 of Act XXIX of 1940.

70. *Suspensions from rank, pay and allowances.*—This sentence must never exceed three months.

71. *Loss of standing* can only be inflicted in the rank held by the prisoner at the time of the sentence: thus a Risaldar or Jamadar can only be placed some places lower in, or at the bottom of, the list of Risaldars or Jamadars as the case may be.

72. *Reprimand or severe reprimand.*—This sentence will be communicated to the prisoner by the Chief Commandant in the presence of all the officers of the [unit °to which the individual belongs.°]

73. *Reduction to a lower grade [or to the ranks.*—This punishment is only awardable in the case of non-commissioned officers including Lance-Daffedars.—]

~~[74. × × × × ×]~~

75. *Stoppages* are only awardable as a punishment for damage to or neglect of horse or wilful injury to or misappropriation of Government property, and are recoverable at the rate of one-third of the monthly pay of the prisoner.

76. *Fines* can only be levied from followers, and must not exceed the amount of the prisoner's pay for three months. They are recoverable at the rate of one-third of his monthly pay.

°See paragraph 85.

[b-b] These words were substituted for the word "Troops" by para 12 of Regulation II of 1910.

[c-c] Substituted for '50' by para 3 of Regulation II of 1913.

[d-o] Substituted by para 27 of Act XXIX of 1940.

[—] This para was omitted by para 28 of Act XXIX of 1940.

Punishment of certain offences.

77. The following offences are punishable more severely when committed on active service, than during peace time :—

Sentry sleeping on, or, quitting his post.
Leaving his post or party in search of plunder.
Quitting guard or party without leave.
Corresponding with the enemy.
Assisting the enemy.
Misbehaviour in presence of the enemy.
Creating false alarm.
Assaulting persons bringing provisions.
Striking or forcing a sentry.

Offences committed on active service.

78. The following offences, when committed on active service, are punishable [a] under these Rules [a] with death or with imprisonment up to 14 years :

Mutiny and sedition.
Violence to a superior.
Disobedience to the lawful command of a superior.
Desertion, or attempt to desert.
Re-enlistment without having been discharged.
Sentry sleeping, or quitting his post.
Sentry plundering.
Abandoning garrison or post.
Betraying watchward or countersign.
Corresponding with the enemy.
Assisting enemy.
Releasing State prisoner or enemy.
Misbehaviour in the presence of the enemy.
Seeking plunder during action.
Quitting guard.
Assaulting persons bringing in provisions.
Causing a false alarm.

79. Whenever any person is convicted [a] under these Rules [a] of the crime of mutiny, or sedition, all his property, moveable and immoveable, shall be forfeited to the State, if the property be within the limits of the State, otherwise to the British Government.

[a-a] These words in Sections 67, 78 and 79 were inserted by Regulation V of 1900, s. 3.

[ ] These words in Sections 78 & 79 were inserted by Act V of 1900.

Offences punishable with imprisonment up to 14 years under these Rules.

80. The following offences are punishable under these Rules with imprisonment up to 14 years or such less punishment as the Court-Martial may award :—

Mutiny.
Violence to superiors.
Insubordination.
Betraying watchword.
Abandoning post.
Wilfully creating false alarm.

Up to two years.

81. The following offences are punishable under these Rules with imprisonment for two years, or such less punishment as the Court-Martial may award :—

Desertion.
Unbecoming behaviour in an officer, Assistant-Surgeon, or Hospital Assistant.
Releasing prisoners.
Assaulting persons bringing provisions.
Striking or forcing a sentry.
Breaking arrest.
Striking subordinate.
Extortion.
Defiling place of worship.
Giving false evidence.
Malingering.
Wilfully causing hurt.
Theft.
Making false returns
Other fraudulent offences.
Cruelty or indecency.
Taking bribes.
Embezzlement.
Destruction of Government property:*
Writing anonymous letters.
Quitting guard, post, picquet or patrol without being regularly relieved, or without leave.
Refusing to superintend or assist in making any field-work. or other military work of any description when ordered to do so.
Attempting to commit suicide.
Appearing armed in camp.

* See also paragraph 90.

Up to one year.

82. In time of peace, the following offences are punishable under these Rules with one year's imprisonment, or such less punishment as the Court-Martial may award :—

Disobedience.
Sentry sleeping on or quitting post.
Striking or forcing a sentry.
Absence without leave.
Drunkenness on duty.
Injuring or making away with horse, arms, clothing or equipment.
Harbouring deserter.
Failure to attend parade
Habitual drunkenness.
Contempt of and offences against Court-Martial.
Failure to rejoin.
Enlisting deserter.
Quitting parade, or line of march.
Quitting guard, or party without leave.
Making wilfully false answer on enlistment.
Conduct prejudicial to good order and military discipline.

Stoppages.

83. Stoppages may be awarded under these Rules in addition to other punishment for the following offences:—

Injuring or making away with horse, arms, clothing, or equipment.
Misappropriation of money or stores.
Destroying Government property.

Dismissal.

84. Dismissal from the service may be awarded in addition to any other sentence.

* **84-A.** (*a*) Any person who is found guilty by a court martial of any of the offences defined in clauses 5, 25, 26, 28, 29, 30, 32, 40, 47 of para 2 of this Act.

(*b*) who is dismissed from the service, or is expressly discharged on account of misconduct, or on conviction by a court for an offence which ~~which~~ would also be an offence under any of the following clauses, *viz.*, 25, 26, 28, 29, 30, 32, 40, of para 2 of the said Act or who is sentenced by a criminal court to a punishment exceeding six months imprisonment.

(*c*) who is sentenced to transportation or to forfeit his medals shall forfeit all medals, decorations (other than the V. C. Military Cross, order of British India and Indian Order of Merit, which are dealt with under special regulations) of which he may be in possession or to which he may be entitled together with the annuity or gratuity of any thereto appertaining.

Reduction.

85. A non-commissioned officer sentenced by Court-Martial to dismissal, or to corporal punishment, or to imprisonment with or without hard labour, shall be deemed to have been reduced to the ranks even though reduction may not have formed part of his sentence.

* This para was added by para 29 of Act XXIX of 1940.

Sections 86-89.

XV.—LOSS OF ARMS.

Loss of arms.

86. In all cases of the loss of a rifle, pistol, carbine or of ball ammunition, the person or persons in whose charge it was, shall be tried by Court-Martial. It shall rest within the accused to prove that the responsibility for the loss does not rest on him.

87. For all arms or part of arms lost, the following amount will be charged to the person or persons in fault, and the Court-Martial shall sentence the prisoner to stoppages to these amounts in addition to any other punishment awarded :—

		Rs.
For each	Maxim or Vickers gun ...	1,600
Do	Hotchkiss and Lowise gun ...	1,000
Do	'303 rifle	800
Do	M. H. rifle or cabine	250
Do	Pistol	175
Do	Bolt of a rifle, carbine or Lewis gun ...	50
Do	Breech block of Hotchkiss gun ...	50
Do	Lock of Maxim or Vickers gun ...	50
Do	Grenade	20
93	Ammunition for Civil offences ...	... Twice its actual value.

XVI.—DESERTION.

Desertion.

88. In trials for desertion, the following points must be borne in mind :—

1.—If leave has been granted to the offender and he deserts, the date of desertion in the charge will be that on which the leave expired.

2.—The fact of an Indian soldier having been struck off after two months' illegal absence does not affect his liability to trial, if afterwards apprehended, or if he surrenders.

3.—On any trial for desertion, the accused may be found guilty of either desertion or of absence without leave, but in the latter case, the period of such absence must be set forth in the finding.

XVII.—ABETMENT.

Abetment.

89. Any person who abets an offender punishable under these Rules, [a] may be punished with the punishments provided for such offences.

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* See also paragraph 91.

[a] The words "or under the Indian Articles of War" in paragraph 89 were repealed by Regulation V of 1900, s. 4.

** Added by G. O. No. G. 10126—Mily. 174-39-2, dated 3rd June 1940.

†† Substituted by G. O. No. G. 10126—Mily. 174-39-2, dated 3rd June 1940.

** Inserted by para 30 of Act XXIX of 1940.

‡‡ Substituted by para 30 of Act of quoted above.

* Amended by para 30 of Act XXIX of 1940.

[ ] Substituted by para 31 of Act XXIX of 1940.

§ certain words repealed by Act V of 1900

Sections 90-94.

XVIII.—MISCELLANEOUS.

Dismissal.

90. On conviction of any one of the following offences, the accused *shall be* sentenced by the Court-Martial to dismissal from the service *and* to forfeiture of all arrears of pay and allowances, *in addition* to any other punishment awarded :

Embezzlement.
Destruction of Government property.
Giving false evidence.

Forfeiture of pay, etc.

91. On conviction of any offence if the accused is sentenced to dismissal from the service, or to any punishment involving dismissal, he may further be sentenced to forfeit, if the Court-Martial shall so direct, all or any arrears of pay and allowances due to him or such portion thereof as may be required to make good any proved loss or damage arising out of his offence.

Stoppages.

92. A Court-Martial may, in addition to any punishment (except dismissal, or a punishment involving dismissal), sentence any person to be put under stoppages until any loss or damage arising out of his offence, be made good.

93. Every person subject to this Act who either within the Mysore State or at any place beyond the State commits any civil offence shall be deemed guilty of an offence against Military Law and if charged therewith under this section, shall be liable to be tried for the same by Court-martial and on conviction to be punished as follows—that is to say—

(*a*) if the offence is one which would be punishable, under the law of Mysore with death or with transportation, he shall be liable to suffer any punishment other than whipping assigned for the offence by the law in Mysore; and

(*b*) in other cases he shall be liable to suffer any punishment other than whipping assigned for the offence by the law of Mysore or such punishment as might be awarded to him in pursuance of this Act in respect of an act prejudical to good order and military discipline.

Provided that a person subject to this Act who at any place within Mysore and while not on active service commits the offence of murder or culpable homicide not amounting to murder in relation to a person not subject to military Law or the offence of rape, shall not be deemed to be guilty of an offence against Military Law and shall not be tried by a Court-martial.

(2) The powers of a court-martial to try and to punish any person under this section shall not be affected by reason of the fact that the civil offence with which such person is charged is also a military offence.

Jurisdiction over certain offences.

‡**94.** When a Criminal Court and a Military authority have each jurisdiction in respect of an offence, it shall be in the discretion of the Government to decide before which of them the proceedings shall be instituted,

[*] Inserted by G. O. No. G. 10126—Mily. 174-39-2, dated 3rd June 1940.

[‡] The words "and the English Band attached to the Palace of His Highness the Maharaja of Mysore" added by Regulation I of 1920, were omitted by Regulation V of 1921.

[* *] This para was substituted for the original by para 32 of Act XXIX 1940.

and if the Government decides that they shall be instituted before a Military authority, to direct that the accused person shall be detained in Military custody."

Power of Criminal Court to require delivery of accused person.

*95. (1) When a Criminal Court having jurisdiction is of opinion that proceedings ought to be instituted before itself in respect of any alleged offence, it may, by written notice, require the officer to whose command the accused person is subject, at his option either to deliver over the accused person to the nearest Magistrate to be proceeded against according to law, or to postpone proceedings pending a reference to the Government.

(2) In every such case the said officer shall either deliver over the accused person in compliance with the requisition or shall forthwith refer the question as to the Court or authority before which the proceedings are to be instituted for the determination of the Government, in the meantime postponing all proceedings against the accused person.

The order of the Government upon such reference shall be final.

[*] Paragraphs 91 and 95 were added by para 2 of Regulation II. of 1907.

* Para 95 was added by para 2 of Act II of 1907.

APPENDIX A.

FORM OF ORDER CONVENING COURT-MARTIAL.

General orders by

Chief Commandant———————————————

In accordance with instructions received from Government [or] from an officer specially authorised to accord sanction [*] ———— a Court-Martial composed as under will assemble in the [Regimental / Orderly Room] of the———— for the purpose of trying No. ———————— and such other prisoners as may be brought before it:—

PRESIDENT.

———————————————

MEMBERS.

———————————————

———————————————

———————————————

———————————————

The prisoner will be warned and all witnesses duly required attend.

(Sd.)———————————————

Chief Commandant.

N.B.—The names, rank and corps of the President and members to be entered in full.

[*] These words were added by para 33 of Act XXIX of 1940.

[†] Substituted for the word "Durbar" by para 33 of the Act quoted above.

N.B. — The names, rank and corps of the President and members to be entered in full

[ ] certain words were added by [illegible] and certain others substituted by para 33 of Act XXIX of 1940.

APPENDIX B.

FORM OF CHARGE SHEET.

The prisoner No. ————————

is charged with :—

1st charge————————*————————

————————————————————————

in that

————————————†————————————

————————————————————————

2nd charge————————————————

in that

————————————†————————————

(Signed)————————

Chief Commandant.

————————

————————

*Here state heading of charge as shown in italics in paragraph 2.

†Here state the particulars thus :—

First charge—insubordination

in that

At Agra on the 20th June 1890, when ordered by his superior officer, Haur Sham Singh, to lay out his kit for inspection, he said : "I have already had my kit inspected once to-day, and I won't lay it out again " or words to that effect.

APPENDIX C.

FORM OF PROCEEDINGS OF A COURT-MARTIAL.

(To be written on one side of the paper only.)

Proceedings of a Court-Martial held at———— on the————day of————193——, conveyed by order of————.

PRESIDENT.*

MEMBERS.*

At———O'clock A.M./P.M., the Court opens for the trial of

No.——

Imperial Service————*

[ ]————

is present to write the proceedings of the Court.

The order convening the Court is read and attached to the proceedings. (Appendix A.)

The prisoner named above is brought before the Court.†

The names of the President and members are read over in the hearing of the prisoner, and they each answer to their names as they are read out.

* The rank, name and corps of the President and of each of the members and also of the prisoner, should be entered in full.

† The prisoner and his escort only are brought before the Court and not any of the witnesses. The witnesses should remain outside, out of hearing of what takes place in Court, and be called in one by one as required. See para 56.

~~[——] omitted by para 33 of Act XXIX of 1940.~~

[ ] The words "Munshi or Babu" deleted by para 33 of Act XXIX of 1940.

Question 1.—*By the President to the prisoner* :—
Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?
Answer 1—*The prisoner replies* :—*

The president and members make solemn affirmation.†
[~~[ ]~~ ~~makes solemn affirmation.‡~~]
The charge sheet is read, carefully explained to the prisoner, and attached to the proceedings. (Appendix B.)
Question 2.—*By the President, to the prisoner* :—
Are you guilty, or not guilty, of the (first) charge?
Answer 2.—*The prisoner replies* :—

Question.—Are you guilty, or not guilty, of the second charge?
Answer.—*The prisoner replies* :—

* Should the prisoner object to the President or to any member or members the rules laid down in para 49 should be observed.
† See para 50.
~~‡ See para 51.~~
Note.—Every question and answer should be numbered consecutively. The prisoner should be asked to plead guilty, or not guilty to each one of the charges for which he is being tried.
[ ] Omitted by para 33 of Act XXIX of 1940.

Certain words were
[ ] deleted by para 33 of Act XXIX of 1940

Note:— Every question and answer should be numbered consecutively. The prisoner should be asked to plead guilty, or not guilty to each one of the charges for which he is being tried.

Appendix.

(*Rank*).....

appears as prosecutor, and proceeds to call witness*

First witness for the prosecution:

No.——

having made a solemn affirmation states†;—

The prisoner declines to cross-examine this witness

or

Cross-examined by the prisoner, the witness states‡;—

Cross-examined by the Court the witness states §—

The witness withdraws.

Second witness for the prosecution:

No.——

having made solemn affirmation states ‖ :—

The witness withdraws.

The prosecution is closed, ¶

DEFENCE.

The prisoner, being called to state what he has to urge in his defence, or in mitigation of punishment states;—

* See para 48. The rank name and corps of the prosecutor and of each witness should be entered in full.

† The evidence given should be taken down as nearly as possible in the witness's own words. See para 54.

‡ When the witness has completed his statement, it should be read over to him in order that it may be corrected, if necessary. The prisoner will then be allowed to cross-examine the witness, should he wish to do so. (See para 55.) Should he not wish to do so, it must be recorded that he declined to cross-examine.

§ Any number of questions bearing on the original evidence given by the witness may be put by the prisoner and the Court. All the replies must be recorded in full.

‖ The evidence of each witness will be recorded on a separate sheet of paper in the same manner as prescribed for the first witness. Additional sheets to be added as may be necessary.

¶ When all witnesses for the prosecution have been examined the prosecution will be closed and the prisoner will be called upon to state what he wishes to say in his defence. This statement should be recorded word for word.

First witness for the defence;

No.——————————————————————

——————————————————————

having made solemn affirmation states * ;—

Cross-examined by the prosecutor, the witness states ;—

The witness withdraws,

The Court is closed to consider its finding †

FINDING. ‡

The Court find that the prisoner No.....

——————————————————————

is *guilty* (or *not guilty* as the case may be) of the first charge, is *guilty* (or *not guilty*) of the second charge.

PROCEEDINGS BEFORE SENTENCE §

The Court is re-opened and prisoner is again brought before it.

The prosecutor ‖ ——————————————————

——————————————————————

is solemnly affirmed, and replies to the following questions put to him by the President ;

Question.—What character does the prisoner bear, and what is his service ?

Answer.—I produce a true copy of his sheet-roll which shows that his character is——————————— and that he has——— ——— years————————month's service. *The copy is compared with the original sheet-roll and is then attached to the proceedings.*

* See para 42. If the prisoner has any witnesses to call to speak in his defence or as to his character their evidence will be recorded in exactly the same manner as in the case of witness for the prosecution. The prosecutor will be allowed to cross-examine all the witnesses called by the prisoner.

† All but the members of the Court [ ] will now leave the room, and be sent beyond ear-shot of what is said inside.

‡ See paras 58 and 60. A separate finding of guilty, or not guilty, must be recorded for each one of the charges, should there be more than one.

§ See paragraph 61.

‖ The rank, name and corps of the prosecutor to be entered in full.

[—] Omitted by para 33 of Act XXIX of 1940.

Question.—Is the prisoner before the Court the person referred to in this sheet-roll ?

Answer.—Yes.

Question.—How long has the prisoner been under arrest (or in confinement) on account of the charges for which he is now being tried ?

Answer.———————days.

The prisoner declines cross-examing this witness.*

The witness withdraws. The Court is closed to consider the sentence.

SENTENCE.†

The Court sentence the prisoner No———————

to be———————

Signed at———————on the———————

day of———————193——

———————*President.*

———————
———————
———————
———————
} *Members.*

.....[—]by whom the proceedings were recorded.

*The prisoner may cross-examine this witness, should he wish to do so.

†The prisoner will be marched back to the lines and the witnesses allowed to disperse.

[—] Omitted by para 33 of Act XXIX of 1940.

§See Para 67 *et. seq.*

CONFIRMATION.*

(*a*) Confirmed.

(*b*) Confirmed: but I remit———————————————————

(*c*) Not confirmed.

Signed at————on the————day of———— 193—.

REVISION.

At————on the————day of ————193————at——M. the Court composed of the same members, all being present, re-assembles by order of———for the purpose of re-considering its ————————————†

[——is present.]

The order directing the re-assembly of the Court, and the letter [*or* memorandum] giving the reasons of Government for requiring a revision of the————————————† are read and attached to the proceedings.

The Court, having attentively considered the observations of the Convening officer, does now————————

Signed this————day of————189—

————*President.*

————
————
————
————
} *Members.*

*See paras 63-66.

†Here enter "Finding," or "Sentence" or both Finding and Sentence as the case may be.

[—] Omitted by para 33 of Act XXIX of 1940.